

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

IN RE: §
§
LEATHER CENTER, INC., §
LEATHER CENTER HOLDINGS, INC., and § CASE NO. 02-43050-DML-7
LEATHER CENTER TRANSPORTATION, §
INC., §
DEBTORS. §

MEMORANDUM ORDER

Before the court is the Trustee's objection to the administrative claim of Richmarc Partners Phase VI Limited Partnership ("Richmarc"). Richmarc was one of the Debtor's landlords. The premises leased by Richmarc were used by the Trustee post-petition to hold inventory pending sale.

On August 8, 2002, the court entered an order fixing September 10 as the last date for landlords to file claims for administrative rent. The bar date (FED. R. BANKR. P. 3002(c)) for all other claims was set for September 12, 2002.

Richmarc filed its claim for administrative rent on September 12. Richmarc asserts that it did not receive notice of the August 8 order or the September 10 bar date for administrative rent claims. The certificates of service filed by the Trustee with respect to the September 10 bar date, however, reflect service to both Richmarc and its attorney.

The Trustee now asks that Richmarc's claim for administrative rent be disallowed as late filed. In response, Richmarc makes several arguments. First, Richmarc argues that its late filing should be allowed as resulting from excusable neglect. FED. R. BANKR. P. 9006(b)(1). Second, Richmarc engaged in correspondence with the Trustee which it suggests should serve as an

“informal proof of claim,” amendable by the claim filed September 12, Third, Richmarc points to 11 U.S.C. § 726(a)(1) as authority for allowance and payment of late-filed priority claims. Finally, Fed. R. Bankr. P. 3002(c)(4), according to Richmarc, provides authority for late-filing of an administrative rent claim in connection with a rejected lease.

The court concludes it need not address the last three of these arguments. Rule 9006(b)(1) clearly allows the court to extend the bar date fixed by the court in its August 8 order. Though Rule 9006(b)(3) prohibits the court from extending the bar date set pursuant to Rule 3002(c), it does not limit this court’s authority to extend a time set by its own order.

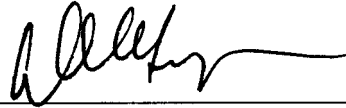
Where, as here, the bar date for administrative rent claims antedated the bar date of Rule 3002(c), the court concludes the threshold for allowing pursuant to Rule 9006(b)(1) a claim filed after the former but timely with respect to the latter should be low. This is especially so in the absence of prejudice to the estate and other creditors and given Richmarc’s correspondence with the Trustee. The court concludes the Trustee was on notice of Richmarc’s claims and should have anticipated them. In short, the court finds that Richmarc’s failure to comply with the September 10 date is excusable where, as here, the claimant relied on complying and did comply with Rule 3002(c).

The court notes that the facts of this case are unique. Accordingly, it is not the court’s intent to accord its decision any precedential value in other cases or in this chapter 7 case.

For the foregoing reasons, the Trustee's objection to Richmarc's claim on the basis of timelines is OVERRULED.

It is so ORDERED.

Signed this the 3rd day of June, 2003.

A handwritten signature in black ink, appearing to read 'D. Lynn', written over a horizontal line.

DENNIS MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE